

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	
High-Cost Universal Service Support)	WC Docket No. 05-337
)	
NCTA Petition for Rulemaking to Reduce)	
High-Cost Support in Competitive)	RM-11584
Rural Areas)	

COMMENTS OF COMCAST CORPORATION

Comcast Corporation (“Comcast”) and its affiliates hereby submit these comments in response to the Wireline Competition Bureau’s Public Notice seeking comment on the National Cable and Telecommunications Association’s (“NCTA”) Petition for Rulemaking, which presents a new approach to universal service high-cost support.¹ Comcast applauds the Bureau’s decision to seek comments on NCTA’s innovative proposal for reforming the Federal Communication Commission’s (the “Commission’s”) obsolete system for subsidizing carriers that serve higher-cost geographic areas. For the reasons set forth below, Comcast urges the Commission promptly to commence a rulemaking proceeding to consider fundamental changes to its universal service fund (“USF”) regime, including NCTA’s proposal to eliminate support in areas where there is extensive, unsubsidized facilities-based voice competition.

¹ National Cable & Telecommunications Association, *Reducing Universal Service Support in Geographic Areas that Are Experiencing Unsupported Facilities-Based Competition*, Petition for Rulemaking, GN Docket No. 09-51, WC Docket No. 05-337 (Nov. 5, 2009) (“NCTA Petition”); *Comment Sought on the National Cable & Telecommunications Association Petition for Rulemaking to Reduce Universal Service High-Cost Support Provided to Carriers in Areas Where There is Extensive Unsubsidized Facilities-Based Voice Competition*, Public Notice, GN Docket No. 09-51, WC Docket No. 05-337, RM-11584, DA 09-2558 (rel. Dec. 8, 2009).

I. THE COMMISSION AND VIRTUALLY EVERY SEGMENT OF THE INDUSTRY AGREE THAT COMPREHENSIVE REFORM OF THE HIGH-COST USF REGIME IS IMPERATIVE

The Commission has recognized repeatedly the need for a thorough overhaul of the system for subsidizing high-cost service areas. In November 2008, for example, the Commission noted that “[t]he communications landscape has undergone many fundamental changes” since the Universal Service Fund was created in 1996.² Based on these changes, the assessable revenue base has declined and the USF contribution factor has steadily risen.³ Over the past two years, the USF contribution factor has continued to rise and is now over 14 percent.⁴ As the Commission has noted, this continuing increase in the contribution factor in conjunction with the ongoing decline in the assessable revenue base “jeopardizes the stability and sustainability” of the USF program⁵ and threatens “the specificity, predictability, and sustainability of the fund.”⁶ Additionally, both the Commission and the courts have acknowledged that USF subsidies are a burden on the consumers of those providers who contribute to the USF pool and that the Commission must take this burden into account when establishing high-cost support mechanisms.⁷

² *High-Cost Universal Service Support*, Order on Remand and Report and Order and Further Notice of Proposed Rulemaking, 24 FCC Rcd 6475, ¶ 39 (2008) (“Comprehensive Reform FNPRM”).

³ *Id.* ¶ 94.

⁴ *Proposed First Quarter 2010 Universal Service Contribution Factor*, Public Notice, CC Docket No. 96-45, DA 09-2588 (rel. Dec. 11, 2009).

⁵ Comprehensive Reform FNPRM ¶ 94.

⁶ *High Cost Universal Service Support*, Order, 23 FCC Rcd 8834, ¶ 9 (2008).

⁷ *Qwest Communications Int’l v. FCC*, 398 F.3d 1222, 1234 (10th Cir. 2005) (noting that “excessive subsidization arguably may affect the affordability of telecommunications services [for unsubsidized users], thus violating the principle in § 254(b)(1)”; *High-Cost Universal Service Support; Federal-State Joint Board on Universal Service*, Notice of Inquiry, 24 FCC Rcd 4281, ¶ 20 (2009); *Federal-State Joint Board on Universal Service*, Seventh Report and Order, 14 FCC Rcd 8078, ¶ 69 (1999).

Comcast and a diverse array of other parties have strongly encouraged the Commission to undertake a systematic review of the various aspects of the high-cost support program.⁸ The current high-cost program is a woefully out-of-date system that continues to determine assistance for rural carriers based on backward-looking costs.⁹ As Comcast has noted, the Commission's failure to overhaul the high-cost support regime has caused the size of the fund to reach unsustainable levels, placing "significant burdens on the consumers of those providers who contribute to the USF pool."¹⁰ Accordingly, Comcast agrees with parties such as Verizon that urge the Commission to "move forward with critical reforms of the fund to bring the universal service program in line with changes in technology and the market to ensure that the fund is sustainable in the future."¹¹

Comprehensive reform of the fund is an essential predicate to redirecting support from narrowband to broadband services. As Comcast has stated previously, "[f]undamental reform can place the program on a firm, cost-effective foundation that will promote

⁸ See, e.g., Reply Comments of Comcast Corporation, WC Docket No. 05-337, at 1-2 (June 8, 2009) ("Comcast High-Cost Reply Comments"); Comments of Comcast Corporation, GN Docket No. 09-51, at 53-62 (June 8, 2009) ("Comcast Broadband NOI Comments"); see also Comments of the United States Telecom Association, WC Docket No. 05-337, at 1-2 (May 8, 2009); Comments of Time Warner Cable Inc., WC Docket No. 05-337, at 1-4 (May 8, 2009); Comments of the New Jersey Board of Public Utilities, WC Docket No. 05-337, at 3-4 (May 8, 2009).

⁹ See Comcast Broadband NOI Comments at 59; see also NCTA Petition at 9 (noting that the current USF programs do not contain "a mechanism for reassessing whether the need for support to a particular location or carrier has changed due to changing conditions in the marketplace").

¹⁰ Comcast High-Cost Reply Comments at 5.

¹¹ Comments of Verizon and Verizon Wireless, WC Docket No. 05-337, at 23 (May 8, 2009).

affordable access to broadband Internet for all Americans.”¹² Contrary to the assertions of some providers,¹³ simply relabeling the legacy wireline high-cost support as broadband support and then redirecting the exact same subsidy to the incumbent fixed network providers would undermine the Commission’s broadband goals. Comprehensive reform must take place first to promote a more efficient, targeted distribution of funds to areas where they are in fact needed. As Comcast has previously noted, “[m]odifying the Program to provide explicit support for broadband Internet access without fundamental reform of the Program’s support mechanisms would only exacerbate the excessive burdens on consumers.”¹⁴

II. THE NCTA PETITION SETS FORTH AN INNOVATIVE APPROACH TO FUNDAMENTAL USE REFORM THAT MERITS CONSIDERATION ON THE RECORD IN A RULEMAKING PROCEEDING

NCTA’s petition offers an inventive proposal to help control the size of the high cost fund. In particular, NCTA recommends that the Commission “reduce the amount of high-cost support provided to carriers in those areas of the country where unsupported facilities-based voice competition is flourishing and where government subsidies no longer are needed to ensure that service will be made available to consumers.”¹⁵ As NCTA notes, “rural high-cost programs . . . provide far more support, for a far longer time, than is necessary to ensure

¹² Comcast High-Cost Reply Comments at 6.

¹³ See, e.g., Comments of AT&T Inc. – NBP Public Notice #19 (Redacted Version), GN Docket No. 09-51, at 9 n.30; see also “Broadband Now Plan,” Recommendations of CenturyLink, Consolidated Communications, Frontier Communications Corp., Iowa Telecommunications Services, Inc., and Windstream Communications, Inc., attached to Comments of CenturyLink on NBP Public Notice #19, GN Docket No. 09-51 (Dec. 7, 2009).

¹⁴ Comcast Broadband NOI Comments at 55.

¹⁵ NCTA Petition at 1.

the availability of service in some areas.”¹⁶ NCTA correctly identifies two primary reasons for this untenable situation and offers pragmatic mechanisms to address each.

First, the current high-cost support programs contain no “mechanism for reassessing whether the need for support to a particular location or carrier has changed due to changing conditions in the marketplace.”¹⁷ The NCTA proposal addresses this shortcoming by seeking to eliminate the current practice of subsidizing incumbent LECs in areas served by another facilities-based provider offering voice service to the same customers without any subsidy. Implementing this type of ongoing assessment mechanism would not only stabilize the fund in the short term, but would create a sustainable fund that, consistent with Congressional intent, accounts for technological advances and new competitive entry.¹⁸

Second, the current funding mechanism fails to consider all of the revenues that an eligible recipient receives from regulated and unregulated services that are relevant to determining the need for high-cost support, thereby artificially inflating the size of the high-cost fund. The NCTA approach, in contrast, would take into account all of the revenues a carrier receives for services provided over some or all of the plant used to offer voice service. This mechanism would put additional downward pressure on the fund, likely reducing the fund to a fraction of its current size.¹⁹ As Free Press has noted:

USF subsidies pay for the ongoing operating expenses of rural telephone companies. In a world of a single application telephony networks, this made

¹⁶ *Id.* at 9.

¹⁷ *Id.*

¹⁸ S. Rep. No. 104-23, 104th Cong., 1st Sess. 26 (1995) (stating in the legislative history of the Telecommunications Act of 1996 that “competition and new technologies will greatly reduce the actual cost of providing universal service over time, thus reducing or eliminating the need for universal service support mechanisms as actual costs drop to a level that is at or below the affordable rate for such service in an area”).

¹⁹ NCTA Petition at 20.

sense, as the bulk of costs were not upfront expenses, and also because the revenue-generating potential of the telephone network was very limited. . . . [T]he new USF should base ongoing support on a provider's total revenue-earning potential from telephone, broadband, and cable TV offered over their new, higher capacity lines.²⁰

Indeed, more than a decade ago, the Commission itself anticipated that competition and new technologies would “lead to the development of new services that will produce additional revenues per line and to reductions in the costs of providing the services generating those revenues.”²¹

The NCTA Petition, in short, presents a thoughtful, creative step toward comprehensive reform of the Commission's obsolete USF assistance programs. In light of the urgent need for reform and the potential for a properly designed USF program to promote broadband growth, the Commission should more fully consider NCTA's proposal through the issuance of a Notice of Proposed Rulemaking (“NPRM”). Such a proceeding would also provide an opportunity for others that may have similarly novel reform approaches to present their proposals for consideration on the record. Other original proposals could include, for example, suggestions for removing support for a recipient's capital investment costs from the subsidy mechanism and proposals for encouraging more private sector investment in sparsely populated and other higher cost service areas.²²

²⁰ Free Press, *Making the National Broadband Plan Work for America*, at 8 (Dec. 2009), available at: <<http://freepress.net/files/NBP-IssueBrief.pdf>>.

²¹ *Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, ¶ 260 (1997). See also Comcast Broadband NOI Comments at 55.

²² See, e.g., Comcast Broadband NOI Comments at 49-53, 61-62.

Accordingly, Comcast urges the Commission promptly to issue an NPRM in response to NCTA's reform proposal and encourage other interested parties to submit similarly innovative plans for ensuring a more stable and sustainable high-cost program.

Respectfully submitted,

/s/ Kathryn A. Zachem

Kathryn A. Zachem

Mary P. McManus

COMCAST CORPORATION

2001 Pennsylvania Ave. NW, Suite 500

Washington, DC 20006

(202) 379-7134

(202) 379-7141

Brian A. Rankin

COMCAST CABLE COMMUNICATIONS, LLC

One Comcast Center, 50th Floor

Philadelphia, PA 19103

January 7, 2010

Certificate of Service

I hereby certify that on this 7th day of January, 2010, I caused a true and correct copy of the foregoing Comments of Comcast Corporation to be mailed by electronic mail to:

Best Copy and Printing, Inc.
fcc@bcpiweb.com

Gary Seigel
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Gary.Seigel@fcc.gov

Katie King
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Katie.King@fcc.gov

Theodore Burmeister
Telecommunications Access Policy Division
Wireline Competition Bureau
Federal Communications Commission
Theodore.Burmeister@fcc.gov

/s/ Mary P. McManus
Mary P. McManus